STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
December 16, 2010

In the Matter of MURRAINE, Minors.

No. 298154
Wayne Circuit Court
Family Division
LC No. 09-488886

Before: WHITBECK, P.J., and ZAHRA and FORT HOOD, JJ.

PER CURIAM.

Respondent V. Murraine appeals as of right from a circuit court order terminating his parental rights to the minor children at the initial dispositional hearing pursuant to MCL 712A.19b(3)(j) and (k)(ii).[1] We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that §§ 19b(3)(j) and (k)(ii) were both proven by clear and convincing legally admissible evidence. MCR 3.977(E)(3) and (K); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008). The evidence showed that the children's half-sister, who was herself a minor child, made statements to at least three different individuals indicating that respondent had sexually molested her. The statements were corroborated by an independent physical examination of the sibling, which revealed an injury to the hymen consistent with "blunt penetrating trauma" directed toward the vaginal opening. Although the sibling did not testify at the termination hearing, respondent does not challenge the trial court's determination that her statements were admissible as substantive evidence under MCR 3.972(C)(2)(a). Further, respondent did not have a right to confront the child at the termination hearing. The constitutional right of confrontation does not apply to civil proceedings, including child protective proceedings. *In re Brock*, 442 Mich 101, 108; 499 NW2d 752 (1993); *Hinky Dink Supermarket, Inc v Dep't of Community Health*, 261 Mich App 604, 607; 683 NW2d 759 (2004). In light of the evidence of respondent's sexual abuse of the children's sibling, the trial court did not clearly err in finding that termination was warranted under §§ 19b(3)(j) and (k)(ii).

We also reject respondent's argument that reversal is required because petitioner failed to provide services to attempt to reunify the family. Initially, because respondent did not object

[1] Contrary to what petitioner asserts, the record does not indicate that the trial court relied on § 19b(3)(b)(i) as an additional statutory ground for termination.

below to the absence of services, this issue is not preserved. Therefore, "review is limited to determining whether a plain error occurred that affected substantial rights." *In re Egbert R Smith Trust*, 274 Mich App 283, 285; 731 NW2d 810 (2007), aff'd 480 Mich 19 (2008). Services are not required in all cases. See MCL 712A.19a(2). Because respondent was suspected of sexually abusing the children's sibling, petitioner was authorized to file a petition to terminate his parental rights and was not required to provide reunification services. MCL 722.638(1)(a)(*ii*) and (2); *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009). Accordingly, there was no plain error.

Lastly, although the trial court erred in stating that the children had been in foster care for a significant period of time, in light of its finding that respondent's sexual abuse created a serious risk of harm to the minor children, it did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ William C. Whitbeck
/s/ Brian K. Zahra
/s/ Karen M. Fort Hood